IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15300 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ALPESHKUMAR BHUPATRAO DOSHI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 15300 of 2003

MS SUBHADRA G PATEL for Petitioner No. 1

MR SS PATEL AGP for Respondent Nos. 1 to 3

MS PJ DAVAWALA for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE R.P.DHOLAKIA

Date of decision: 18/12/2003

ORAL JUDGEMENT

The present petition has been filed by the petitioner detenu who has been detained under the

provisions of Prevention of Black Marketing of Supplies of Essential Commodities Act, 1980, by the order dated 7/7/2003 passed by the District Magistrate, Amreli.

2. I have heard Ms.Subhadraben Patel, learned counsel for the petitioner - detenu, Mr.SS Patel, learned AGP for respondent Nos.1 to 3 and Ms.Davawala, learned Additional Central Government Standing Counsel for respondent No.4 and also perused the material on record. Perused the reply filed by the respective respondents.

3. Learned counsel for the detenu has mainly submitted that against the detention order, a detailed representation was made on behalf of the detenu on 8/10/2003 to the detaining authority but the same was not forwarded by the detaining authority to the concerned authorities within a reasonable period.

4. The learned AGP has fairly admitted that the representation made on behalf of the detenu could not be forwarded to the concerned authorities by the detaining authority within reasonable period.

5. The detaining authority has not forwarded the representation made on behalf of the detenu to the concerned authorities which shows non-application of mind on the part of the detaining authority and hence, the detention order is required to be quashed and set aside.

6. In the result, the petition is allowed. The impugned order of detention dated 7/7/2003 passed against the detenu is hereby quashed and set aside. The detenu is ordered to be set at liberty forthwith, if not required in any other case. Rule is made absolute accordingly with no order as to costs. D.S. Permitted.

(R.P.DHOLAKIA,J.)
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